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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053501
Party	Defendant Del Taco, LLC
Correspondence Address	APRIL L BESL DINSMORE SHOHL LLP 255 EAST FIFTH STREET CINCINNATI, OH 45202 UNITED STATES april.besl@dinsmore.com
Submission	Defendant's Notice of Reliance
Filer's Name	April L Besl
Filer's e-mail	april.besl@dinsmore.com
Signature	/april l besl/
Date	01/15/2014
Attachments	Notice of Reliance - 2nd RFAs.pdf(8044 bytes) Supplemental Responses RFA SIGNED (Ziebarth v. Del Taco).pdf(540809 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729
Cancellation No. 92053501

RESPONDENT DEL TACO LLC'S NOTICE OF RELIANCE

Pursuant to Rule 704.09 of the Trademark Trial and Appeal Board Manual of Procedure and 37 CFR § 2.120(j), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby gives notice that Del Taco offers into evidence and will rely on the attached Petitioner's Supplemental Responses to Respondent's First Set of Requests for Admission, Set No. One.

Respectfully Submitted,

Dated: **January 15, 2014**

/ April L Besl /

April L. Besl
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*Attorneys for Respondent
Del Taco LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by first-class mail, with courtesy copy via email, on this 15th day of January, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

/ April L Besl /
April L Besl

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729
Cancellation No. 92053501

**PETITIONER'S SUPPLEMENTAL RESPONSES TO RESPONDENT'S
FIRST SET OF REQUESTS FOR ADMISSIONS, SET NO. ONE**

The following General Objections are incorporated by reference into each response set forth below and are not waived with respect to any response.

1. Petitioner generally objects to Respondent's Admission Requests to the extent they seek disclosure of any information, document, or thing protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the FRCP, case law, regulations, administrative orders, or any other applicable rules, decisions, or laws including, but not limited to, information protected by the attorney-client privilege, the work-product doctrine or other applicable privilege.

2. Petitioner generally objects to Respondent's Admission Requests to the extent they purport to impose upon Petitioner obligations greater than those imposed by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

3. Petitioner generally objects to Respondent's Admission Requests to the extent that they seek information that is irrelevant and not calculated to lead to the discovery of admissible evidence or to the extent that Respondent's Admission Requests seek the disclosure

of information, documents, or things beyond the scope of discovery as provided by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

4. Petitioner objects to Respondent's Admission Requests to the extent that they request confidential or proprietary information. Petitioner may provide such information, if relevant, not obtainable by less intrusive means, and not privileged, subject to the Trademark Trial and Appeal Board Protective Order in place between the parties.

5. Petitioner reserves the right to object to further inquiry with respect to the subject matter of Respondent's Admission Requests and responses provided thereto.

6. Petitioner objects to each of Respondent's Admission Requests to the extent that they seek information that is a matter of public record or otherwise available to Respondent without imposing undue burden on Respondent.

7. Petitioner objects to Respondent's Admission Requests on the grounds that they are premature in that Petitioner has not yet completed its own discovery and preparation for the testimony or trial periods. Petitioner reserves the right to provide any subsequently discovered information, and to supplement or change its responses based on such information.

8. As to all matters referred to in these responses to Respondent's Admission Requests, investigation and discovery continues. Accordingly, Petitioner reserves its right to modify, amend or change these responses, to present, use or rely on in any proceedings and at trial any supplemental, amended, changed or modified responses and/or further information and documents obtained during discovery and preparation for trial. Further discovery, independent investigation, and legal research and analysis may supply additional facts and documents adding meaning to known facts and documents, as well as establishing entirely new factual conclusions or legal conclusions, all of which may lead to substantial additions to, changes in, and variations

from the responses set forth herein. Petitioner reserves the right to produce any subsequently discovered evidence, facts, and/or documents, and to supplement, amend, or change its responses based on such information. The responses given herein are done so in a good faith effort to supply as much information as is presently known, which should in no way lead to the prejudice of Petitioner in connection with further discovery, research or analysis. However, Petitioner reserves the right to supplement, change or amend its responses due to information inadvertently omitted from these responses. No incidental or implied admissions of any kind are intended by the responses here.

9. Petitioner preserves all objections as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose in any proceeding in this or any other action.

10. Petitioner preserves the right to object to the use of any response or document in any proceeding in this or any other action.

11. Petitioner preserves the right to object on any grounds, at any time, to a demand for further response to these or any other Admission Requests.

REQUEST FOR ADMISSION NO. 1:

Petitioner is not currently offering any products under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission

Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some

16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 2:

Petitioner has not previously offered any products under Petitioner’s NAUGLES Mark.

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RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.”

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 3:

Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 4:

Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health*

Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 5:

Petitioner was not offering cafeteria and restaurant services under Petitioner's NAUGLES Mark as of May 17, 2010.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 6:

Petitioner is not currently offering cafeteria and restaurant services under Petitioner’s NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 7:

Petitioner has not entered into any licensing agreements with third parties in connection with Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in

discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 8:

Petitioner has not obtained any loans necessary to finance the manufacturing, sale and distribution of Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services

as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 9:

Petitioner has not entered into a partnership to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark.

Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13

“Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 10:

Petitioner has not raised any funds to finance the manufacturing, sale and distribution of Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the

registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 11:

Petitioner has not created any marketing plans for Petitioner’s NAUGLES Products.

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RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.”

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO.12:

Petitioner has not made any monthly expenditures to date for the purpose of manufacturing or preparing to manufacture Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 13:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 14:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Petitioner is informally aware that there is an interest in the Naugles brand in the populace. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 15:

Petitioner has not conducted any consumer testing with respect to Petitioner’s NAUGLES Mark.

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RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.”

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 16:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Marks.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 17:

Petitioner has not entered into any contracts with third parties for manufacturing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 18:

Petitioner has not entered into any contracts with third parties for ingredients to be used in Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 19:

Petitioner has not entered into any contracts with third parties for shipping of Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 20:

Petitioner has not entered into any contracts with third parties for the sale of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in

discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 21:

Petitioner has not entered into any contracts with third parties to operate cafeterias offering Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services

as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 22:

Petitioner has not entered into any contracts with third parties for operate restaurants offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark.

Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13

“Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 23:

Petitioner has not entered into any contracts with third parties for locations where Petitioner’s NAUGLES Products will be offered.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the

registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 24:

Petitioner has not entered into any contracts with third parties for marketing of Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.”

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 25:

Petitioner has not entered into any negotiations with third parties for manufacturing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 26:

Petitioner has not entered into any negotiations with third parties for ingredients to be used in Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 27:

Petitioner has not entered into any negotiations with third parties for shipping of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 28:

Petitioner has not entered into any negotiations with third parties for the sale of Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 29:

Petitioner has not entered into any negotiations with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in

discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 30:

Petitioner has not entered into any negotiations with third parties to operate restaurants offering Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 30:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services

as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 31:

Petitioner has not entered into any negotiations with third parties for locations where Petitioner's NAUGLES Products will be offered.

RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark.

Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13

“Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 32:

Petitioner has not entered into any negotiations with third parties for marketing of Petitioner’s NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the

registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos’ PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name “nauglestacos.com.” Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 33:

The website located at the domain name <http://www.mexfoodla.com/> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 34:

The website located at the domain name <http://www.mexfoodla.com/> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 35:

All posts by "ChristianZ" at the domain name <http://www.mexfoodla.com/> are by Petitioner.

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RESPONSE TO REQUEST FOR ADMISSION NO. 35:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 36:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://www.mexfoodla.com/>.

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RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner’s account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent’s trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 37:

Petitioner has not discussed Petitioner’s NAUGLES Mark on <http://www.mexfoodla.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner’s account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent’s trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 38:

The website located at the domain name <http://ocfoodblogs.blogspot.com/> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 38:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission

Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 39:

The website located at the domain name <http://ocfoodblogs.blogspot.com/> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the

discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 40:

All posts by "ChristianZ" at the domain name <http://ocfoodblogs.blogspot.com/> are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 41:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://ocfoodblogs.blogspot.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 41:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims

and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary

Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner’s account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent’s trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 42:

Petitioner has not discussed Petitioner’s NAUGLES Mark on <http://ocfoodblogs.blogspot.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 42:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of

discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent’s non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named

“Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner’s account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent’s trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 43:

The website located at the domain name <http://warmth-of-the-sun.blogspot.com/> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 43:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health*

Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 44:

The website located at the domain name <http://warmth-of-the-sun.blogspot.com/> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 44:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 45:

All posts by "ChristianZ" at the domain name <http://warmth-of-the-sun.blogspot.com/> are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 45:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of

abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 46:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://warmth-of-the-sun.blogspot.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of

abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to

abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 47:

Petitioner has not discussed Petitioner's NAUGLES Mark on <http://warmth-of-the-sun.blogspot.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 47:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 48:

The website located at the domain name <http://ocmexfood.blogspot.com/> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 49:

The website located at the domain name <http://ocmexfood.blogspot.com/> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 50:

All posts by “ChristianZ” at the domain name <http://ocmexfood.blogspot.com/> are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 51:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://ocmexfood.blogspot.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner has left some responses to commenters letting them know that Naugles may return. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 52:

Petitioner has not discussed Petitioner's NAUGLES Mark on <http://ocmexfood.blogspot.com/>.

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RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named “Franchise Offering Circular,” “We no longer offer restaurants under the name of Naugles.” (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as “Primary Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner has left responses to commenters letting them know that Naugles may return.

REQUEST FOR ADMISSION NO. 53:

The website located at the domain name <http://christianziebarth.com/> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 53:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 54:

The website located at the domain name <http://christianziebarth.com/> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 54:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission

Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 55:

All the information posted at the domain name <http://christianziebarth.com/> is posted by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 55:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the

discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 56:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://christianziebarth.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 56:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 57:

Petitioner has not discussed Petitioner's NAUGLES Mark on <http://christianziebarth.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 57:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims

and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary

Trademarks” and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 “Trademarks”, Page 20; file name UFOC 3/2004). Further, in a document named “Marketing Meeting – Reno, September 15, 1995” it states “Flyers to hand out announcing the closure of Naugles.”

Additionally, Petitioner’s account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent’s trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 58:

The Facebook page located at <http://www.facebook.com/ocmexfood?v=wall> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 58:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of

discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 59:

The Facebook page located at <http://www.facebook.com/ocmexfood?v=wall> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 59:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must

act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 60:

All posts under the name “OC Mex Food” on the Facebook page located at <http://www.facebook.com/ocmexfood?v=wall> are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 60:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health*

Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 61:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://www.facebook.com/ocmexfood?v=wall>.

RESPONSE TO REQUEST FOR ADMISSION NO. 61:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to

abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 62:

Petitioner has not discussed Petitioner's NAUGLES Mark on <http://www.facebook.com/ocmexfood?v=wall>.

RESPONSE TO REQUEST FOR ADMISSION NO. 62:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 63:

The Twitter page located at <http://twitter.com/#!/cmziebarth> is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 63:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 64:

The Twitter page located at <http://twitter.com/#!/cmziebarth> is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 64:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 65:

All posts under the name “cmziebarth” on <http://twitter.com/#!/cmziebarth> are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 65:

Petitioner incorporates by this reference its General Objections to Respondent’s Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner’s use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent’s abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party”); T.B.M.P. § 402.01 (“While the scope of discovery is therefore somewhat broad, parties may not engage in ‘fishing expeditions’ and must act reasonably in framing discovery requests.”); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner’s use of its mark is irrelevant in connection with petitioner’s claim of abandonment of respondent’s mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

///

REQUEST FOR ADMISSION NO. 66:

Petitioner has not discussed Petitioner's NAUGLES Products on <http://twitter.com/#!/cmziebarth>.

RESPONSE TO REQUEST FOR ADMISSION NO. 66:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Admit.

REQUEST FOR ADMISSION NO. 67:

Petitioner has not discussed Petitioner's NAUGLES Mark on <http://twitter.com/#!/cmziebarth>.

RESPONSE TO REQUEST FOR ADMISSION NO. 67:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also *Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

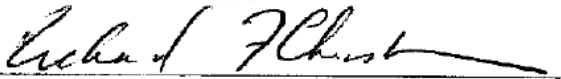
to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Admit.

DATED this 14th day of March, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW


Richard F. Christesen
Attorneys for Petitioner


Christian M. Ziebarth, Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PETITIONER'S SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS, SET NO. ONE** was sent by email, on this 14th day of March, 2012, to the party below:

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